

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

CALISTA ENTERPRISES, LTD., et al.)
Plaintiffs,) Case No. 3:13-CV-01045
v.) January 31, 2014
TENZA TRADING, LTD.,) Portland, Oregon
Defendant.)

TELEPHONIC DISCOVERY CONFERENCE
TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE MICHAEL H. SIMON
UNITED STATES DISTRICT COURT JUDGE

APPEARANCES

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1 COURT REPORTER:

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Registered Merit Reporter
Registered Diplomate Reporter
Certified Realtime Reporter

4 United States District Courthouse
5 1000 SW Third Avenue, Room 301
6 Portland, OR 97204
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7 * * *

1 MR. TAUGER: And I will happily do that,
2 Your Honor. There's a difference between cooperating with
3 Calista to that extent, and essentially granting them an
4 extension of discovery cutoff. Tenza will undertake to do
5 that with Mr. Matthyssen.

6 THE COURT: Very good.

7 All right. Next item on my list deals with, I think,
8 Matthyssen and DreamStars Cash -- DreamStar Cash's --

9 Is that what it's called "DreamStar Cash"?

10 MR. TAUGER: DreamStar Cash. That's correct.

11 THE COURT: -- relationship with Tenza. That's
12 Calista's interrogatory 7 and 8, request for production
13 numbers 28, 29, Calista's document request number 10. And I
14 guess Calista says that -- well, let me ask Calista: What
15 do you need there and why is that relevant?

16 MR. SHAYEFAR: Matthew Shayefar, Your Honor. It
17 seems to us that the entire operation of the porntube.com
18 website are run through DreamStar Cash. And Tenza, I think,
19 as far as we can tell, is simply a shell company that owns
20 the trademark and perhaps owns the domain name.

21 So the relationship of what DreamStar Cash and
22 Mr. Matthyssen, who founded -- at the very least, founded
23 DreamStar Cash, do is highly relevant to find out what they
24 know and what relations they've had with Calista, because
25 with DreamStar does is essentially what Tenza does, okay.

1 And we -- it's important for us to be able to show the close
2 relationship with the two so that there's a basis for
3 showing that DreamStar Cash and Tenza --

4 THE COURT: What am I missing? I don't understand
5 why. Calista's complaint is that there's a declaration of
6 non-infringement, primarily because the putative mark is
7 invalid. So what difference does it make if Tenza is
8 basically a shell that does nothing but own the putative
9 mark and is operated through DreamStar Cash? So what?

10 MR. SHAYEFAR: The -- the -- Matthew Shayefar,
11 Your Honor. It's relevant in that the relationship for two
12 years prior to the dispute starting was between Calista
13 and -- effectively all the communications between Calista,
14 and Tenza was through DreamStar. So to the extent that
15 Tenza might try to separate itself from any of the actions
16 that DreamStar might have taken in order to immunize it
17 from any wrong that DreamStar might have done on its behalf.

18 THE COURT: Well, I'm still not following. What
19 is it that DreamStar might have done or not done that would
20 affect any of the allegations in Calista's complaint?

21 MR. SHAYEFAR: We allege that -- Matthew Shayefar,
22 Your Honor. We allege that DreamStar would be one that
23 allowed Calista to operate under these domain names at
24 issue, and it was DreamStar that -- that we -- knew
25 explicitly about these domain names.

1 THE COURT: Okay. And so then, to the extent that
2 there can't be infringement because Calista had the consent
3 or license of Tenza, part of Calista's argument might be
4 that it received that license through its interactions
5 through Matthyssen and DreamStar and therefore DreamStar --
6 it's relevant to discover DreamStar Cash because -- to show
7 that it was acting as essentially the agent for Tenza. Is
8 that it?

9 MR. SHAYEFAR: Mathew Shayefar, Your Honor. Yes.

10 MR. GURVITS: Val Gurvits again. One other point:
11 Again, because Mr. Matthyssen is in both places, which when
12 he does something, activities, on behalf of DreamStar, he
13 cannot then say that Tenza doesn't know about it.

14 THE COURT: Sure. Let me ask Mr. Tauger: Is
15 Tenza prepared to stipulate that the actions that DreamStar
16 took were taken either as an agent for or alterego of or at
17 least for purposes limited to this action, on the issues
18 related to this action, are actions that can be attributable
19 to Tenza?

20 MR. TAUGER: This is Paul Tauger, Your Honor. The
21 answer is yes, with a but dot, dot, dot.

22 The actions taken by DreamStar on behalf of Tenza from
23 the date of Tenza's existence forward we will stipulate were
24 attributable to Tenza, and we will further stipulate that
25 knowledge that DreamStar had -- my point, is it can be

1 imputed to Tenza. That's fine. I think we've been clear
2 with Calista about this from the beginning.

3 What was explained to me at the conference call that we
4 had on Monday was that they have some theory that this is
5 all an alterego of Steve Matthyssen and/or Mike Cardone.
6 And I don't know what their basis for that was. But none of
7 that seems relevant.

8 And where I don't want them going in this -- they don't
9 need to know anything about the ownership organization,
10 profit distribution, employees -- you name it -- of
11 DreamStar, except to the extent that it's relevant to
12 this litigation. That they're ostensible agents for Tenza,
13 we would stipulate.

14 THE COURT: Okay. Doesn't that take care of what
15 you're entailed to, Calista?

16 MR. GURVITS: This is Val Gurvits. I believe it
17 does.

18 THE COURT: Okay. The next item on my list is
19 Tenza's sales, expenses, and profits from the putative mark.
20 Interrogatory number 16. Request for productions 25 and 26.

21 Oh, let me pause. Let me ask our court reporter. Are
22 you doing okay? We're about 75 percent through.

23 THE COURT REPORTER: I'm fine.

24 THE COURT: So interrogatory 16, request for
25 production 25 and 26, topic number 16. These are Tenza's

C E R T I F I C A T E

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January 31, 2014

I certify, by signing below, that the foregoing is
a true and correct transcript of the record of proceedings
in the above-entitled cause. A transcript without an
original signature, conformed signature, or digitally signed
signature is not certified.

/s/Jill L. Erwin, CSR, RMR, RDR, CRR

Official Court Reporter

Date: February 7, 2014